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8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation and Petition to
12 Revoke Probation Against:

12 MARY MARGARET SCOTKA
13 5419 Hollywood Blvd., Suite C272
14 Hollywood, CA 90027

15 Registered Nurse License No. 679933

16 Respondent.

Case No. 2006-54

**ACCUSATION AND PETITION TO
REVOKE PROBATION**

17 Complainant alleges:

18 **PARTIES**

19 1. Ruth Ann Terry, M.P.H, R.N (Complainant) brings this Accusation and
20 Petition to Revoke Probation solely in her official capacity as the Executive Officer of the Board
21 of Registered Nursing (Board), Department of Consumer Affairs.

22 2. On or about March 31, 2006, the Board issued Registered Nurse License
23 No. 679933 to Mary Margaret Scotka (Respondent). The Registered Nurse License will expire
24 on November 30, 2009.

25 3. In a disciplinary action entitled "In the Matter of the Statement of Issues
26 Against Mary Margaret Scotka," Case No. 2006-54, the Board issued its decision, effective May
27 27, 2006, in which Respondent's Registered Nurse License was revoked, revocation stayed, and

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1 placed on probation for a period of three (3) years with certain terms and conditions. A copy of
2 that decision is attached as Exhibit A and is incorporated by reference.

3 JURISDICTION

4 4. This Accusation and Petition to Revoke Probation is brought before the
5 Board, under the authority of the following laws. All section references are to the Business and
6 Professions Code unless otherwise indicated.

7 STATUTORY PROVISIONS

8 5. Section 2750 of the Code states:

9 "Every certificate holder or licensee, including licensees holding temporary
10 licenses, or licensees holding licenses placed in an inactive status, may be disciplined as provided
11 in this article [Article 3 of the Nursing Practice Act (Bus. & Prof Code, § 2700 et seq.)]. As used
12 in this article, "license" includes certificate, registration, or any other authorization to engage in
13 practice regulated by this chapter. The proceedings under this article shall be conducted in
14 accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2
15 of the Government Code [the Administrative Procedure Act], and the board shall have all the
16 powers granted therein."

17 6. Section 2761 states:

18 "The board may take disciplinary action against a certified or licensed nurse or
19 deny an application for a certificate or license for any of the following:

20 (a) Unprofessional conduct, which includes, but is not limited to, the following:

21

22 (d) Violating or attempting to violate, directly or indirectly, or assisting in or
23 abetting the violating of, or conspiring to violate any provision or term of this chapter [the
24 Nursing Practice Act] or regulations adopted pursuant to it."

25 7. Section 2762 states:

26 "In addition to other acts constituting unprofessional conduct within the meaning
27 of this chapter it is unprofessional conduct for a person licensed under this chapter to do any of
28 the following:

1 (a) Obtain or possess in violation of law, or prescribe, or except as directed by a
2 licensed physician and surgeon, dentist, or podiatrist administer to himself or herself, or furnish
3 or administer to another, any controlled substance as defined in Division 10 (commencing with
4 Section 11000) of the Health and Safety Code or any dangerous drug or dangerous device as
5 defined in Section 4022.

6

7 (e) Falsify, or make grossly incorrect, grossly inconsistent, or unintelligible entries
8 in any hospital, patient, or other record pertaining to the substances described in subdivision (a)
9 of this section."

10 8. Section 2764 states:

11 "The lapsing or suspension of a license by operation of law or by order or decision
12 of the board or a court of law, or the voluntary suspension of a license by a licentiate shall not
13 deprive the board of jurisdiction to proceed with any investigation of or disciplinary proceeding
14 against such license, or to render a decision suspending or revoking such license."

15 9. Section 125.3 of the Code provides, in pertinent part, that the Board may
16 request the administrative law judge to direct a licentiate found to have committed a violation or
17 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
18 and enforcement of the case.

19 10. **DEFINITIONS**

20 A. "Dilaudid" is a trade name for hydromorphone hydrochloride. It is a
21 Schedule II controlled substance as defined by Health and Safety Code section 11055,
22 subdivision (d) and a dangerous drug pursuant to Business and Professions Code section 4022.

23 B. "Lorazepam" (Ativan) is a Schedule IV controlled substance as defined
24 by Health and Safety Code section 11057, and a dangerous drug pursuant to Business and
25 Professions Code section 4022.

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1 C. "Vicodin" is a trade name for a combination hydrocodone bitartrate and
2 acetaminophen. It is a Schedule III controlled substance as defined by Health and Safety Code
3 section 11056, subdivision (e) and a dangerous drug pursuant to Business and Professions Code
4 section 4022.

5 D. "Morphine" is a Schedule II controlled substance as defined by Health
6 and Safety Code section 11055, subdivision (b)(1) and a dangerous drug pursuant to Business
7 and Professions Code section 4022.

8 E. "Omnicell SureMed" is a computerized automated single-dose
9 medication distribution system that operates similarly to an automated teller machine at a bank.
10 Medications can be withdrawn from the Omnicell machine only by an authorized staff person
11 using his or her own personalized access code. The Omnicell machine makes a record of the
12 medication and dose, date and time it was withdrawn, the user identification, and the patient for
13 whom it was withdrawn.

14 ACCUSATION

15 FIRST CAUSE FOR DISCIPLINE

16 (Unprofessional Conduct)

17 10. Respondent is subject to disciplinary action under section 2761,
18 subdivisions (a) and (d) of the Code, on the grounds of unprofessional conduct as follows:

19 A. In or about August, 2006, through on or about July 11, 2007, Respondent,
20 worked as a Registered Nurse at Good Samaritan Hospital in Los Angeles, CA. The hospital
21 used the Omnicell automated medication system(Omnicell system). On or about June 14,
22 through July 11, 2007, Respondent obtained controlled substances via the Omnicell system
23 without authorization by a physician. The unauthorized withdrawal of controlled substances
24 includes, but is not limited to the following;

25 Patient #1

26 1). On or about June 15, 2007, at 7:32 p.m., 8:47 p.m., and 11:24 p.m.,
27 Respondent withdrew a 2 mg syringe of Dilaudid for this patient by entering her personalized
28 access code into the Omnicell system as reflected in the Omnicell report for a total of 6 mg of

1 Dilaudid. The Medication Administration Record (MAR) notes that at 7:30 p.m., 2 mg of
2 Dilaudid was administered to this patient. There was no order for Dilaudid for this patient by any
3 physician. Respondent did not account for the administration of the remaining 4 mg of Dilaudid
4 to this patient in any hospital record.

5 Patient #2

6 2). On or about June 15, 2007, at 3:56 a.m., Respondent withdrew a 2 mg
7 syringe of Dilaudid for this patient by entering her personalized access code into the Omnicell
8 system as reflected in the Omnicell report. The physician orders indicate that Dilaudid 2 mg IV
9 was ordered at 3:20 a.m. and administered at 3:30 a.m. for this patient. The patient's physician
10 denies giving any order for Dilaudid for this patient. Moreover, Respondent did not account for
11 the administration of the 2 mg of Dilaudid to this patient in any hospital record.

12 Patient #3

13 3). On or about June 16, 2007, at 2:07 am, Respondent withdrew a 2 mg
14 syringe of Dilaudid for this patient by entering her personalized access code into the Omnicell
15 system as reflected in the Omnicell report. The physician orders indicate that Dilaudid 2 mg IV
16 was ordered at an unspecified time and administered at 3:30 a.m. for this patient. The patient's
17 physician denies giving any order for Dilaudid for this patient. This order is written above the
18 entry lines of the form and appears to have been written out of sequence with the rest of the
19 orders for that day. Respondent documented the administration of the Dilaudid to this patient in
20 the medication administration record. The entry appears to be out of chronological sequence
21 with the other entries for that day.

22 Patient #4

23 4). On or about June 14, 2007, at 8:09 pm and at 8:29 pm, Respondent
24 withdrew 1 tablet (500 mg) of Vicodin for a total of 2 tablets by entering her personalized access
25 code into the Omnicell system as reflected in the Omnicell report. There was no order for
26 Vicodin for this patient by any physician. Respondent did not account for the administration of
27 the Vicodin to this patient in any hospital record.

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1 Patient #5

2 5). On or about June 14, 2007, at 11:21 pm, Respondent withdrew a 2 mg
3 syringe of Dilaudid for this patient by entering her personalized access code into the Omnicell
4 system as reflected in the Omnicell report. On or about June 15, 2007, at 2:07 am and 3:56 am,
5 withdrew a 2 mg syringe of Dilaudid for this patient by entering her personalized access code
6 into the Omnicell system as reflected in the Omnicell report for a total of 4 mg of Dilaudid.
7 There was no order for Dilaudid for this patient by any physician. Respondent did not account
8 for the administration of the 6 mg of Dilaudid to this patient in any hospital record.

9 Patient #6

10 6). On or about June 16, 2007, at 1:43 am, Respondent withdrew a 2 mg
11 syringe of Dilaudid for this patient by entering her personalized access code into the Omnicell
12 system as reflected in the Omnicell report. There was no order for Dilaudid for this patient by
13 any physician. Respondent did not account for the administration of the 2 mg of Dilaudid to this
14 patient in any hospital record.

15 Patient #7

16 7). On or about June 14, 2007, at 8:36 pm, Respondent withdrew 2 tablets
17 (500 mg) each of Vicodin by entering her personalized access code into the Omnicell system as
18 reflected in the Omnicell report. There was no order for Vicodin for this patient by any
19 physician. Respondent did not account for the administration of the Vicodin to this patient in any
20 hospital record.

21 Patient #8

22 8). On or about June 22, 2007, at 10:52 pm Respondent withdrew a 2 mg
23 Syringe of Dilaudid for this patient by entering her personalized access code into the Omnicell
24 system as reflected in the Omnicell report. On or about June 23, 2007, at 12:17 am, Respondent
25 withdrew a 2 mg Syringe of Dilaudid for this patient. There was no order for Dilaudid for this
26 patient by any physician. Respondent did not account for the administration of the 4 mg of
27 Dilaudid to this patient in any hospital record.

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1 Patient #9

2 9). On or about July 9, 2007, at 10:35 pm, Respondent withdrew a 2 mg
3 syringe of Dilaudid for this patient by entering her personalized access code into the Omnicell
4 system as reflected in the Omnicell report. At 11:50 pm, she withdrew 2 mg of Lorazepam.
5 There was no order for Dilaudid or Lorazepam for this patient by any physician. Respondent did
6 not account for the administration of the Dilaudid or Lorazepam to this patient in any hospital
7 record.

8 Patient #10

9 10). On or about July 10, 2007, at 7:34 pm, Respondent withdrew a 2 mg
10 syringe of Dilaudid for this patient by entering her personalized access code into the Omnicell
11 system as reflected in the Omnicell report. On or about July 11, 2007, at 2:00 am, Respondent
12 withdrew a 2 mg syringe of Dilaudid for this patient by entering her personalized access code
13 into the Omnicell system as reflected in the Omnicell report. There was no order for Dilaudid for
14 this patient by any physician. Respondent did not account for the administration of the Dilaudid
15 to this patient in any hospital record.

16 **SECOND CAUSE FOR DISCIPLINE**

17 **(Obtaining Drugs)**

18 11. Respondent's license is subject to disciplinary action under section 2761,
19 subdivision (a) of the Code, on the grounds of unprofessional conduct as defined under section
20 2762, subdivision (a), in that while employed as a Registered Nurse at Good Samaritan Hospital,
21 Respondent unlawfully obtained or possessed controlled substances illegally as set forth in
22 paragraphs 10, A 1). through 10). above.

23 **THIRD CAUSE FOR DISCIPLINE**

24 **(False Records)**

25 12. Respondent's license is subject to disciplinary action under section 2761,
26 subdivision (a) of the Code, on the grounds of unprofessional conduct as defined under section
27 2762, subdivision (d), in that Respondent while employed as a Registered Nurse at Good
28 Samaritan Hospital, Respondent falsified, made grossly incorrect, grossly inconsistent, or

1 unintelligible entries in hospital records pertaining to controlled substances as set forth in
2 paragraphs 10, A 1). through 10). above.

3 **PETITION TO REVOKE PROBATION**

4 **CAUSE TO REVOKE PROBATION**

5 **(Violation of Administrative Decision and Order)**

6 13. Respondent is subject to having her probation and license revoked, in that
7 Respondent violated certain terms and conditions of probation, as follows:

8 At all times after the effective date of Respondent's probation, Conditions 2, 5, 9,
9 and 15 of the Board's Administrative Decision and Order stated:

10 **Condition 2: Comply with the Board's Probation Program.** "Respondent shall
11 fully comply with the conditions of the Probation Program established by the Board and
12 cooperate with representatives of the Board in its monitoring and investigation of the
13 Respondent's compliance with the Board's Probation Program. Respondent shall inform the
14 Board in writing within no more than 15 days of any address change and shall at all times
15 maintain an active current license status with the Board, including during any period of
16 suspension."

17 "Upon successful completion of probation, Respondent license shall be fully
18 restored."

19 **Condition 5: Submit Written Reports.** "Respondent, during the period of
20 probation, shall submit or cause to be submitted such written reports/declarations and verification
21 of actions under penalty of perjury, as required by the Board. These reports/declarations shall
22 contain statements relative to Respondent's compliance with all the conditions of the Board's
23 Probation Program. Respondent shall immediately execute all release of information forms as
24 may be required by the Board or its representative."

25 "If during the period of probation, an accusation or petition to revoke probation
26 has been filed against Respondent's license or the Attorney General's Office has been requested
27 to prepare and accusation or petition to revoke probation against Respondent's license, the
28 probationary period shall automatically be extended and shall not expire until the accusation or

petition has been action upon by the Board.”

Condition 9: Employment Limitations. “Respondent shall not work for a nurse’s registry, in any private duty position as a registered nurse, a temporary nurse placement agency, a traveling nurse, or for an in-house nursing pool.”

“Respondent shall not work for a licensed home health agency as a visiting nurse unless the registered nursing supervision and other protections for home visits have been approved by the Board. Respondent shall not work in any other registered nursing occupation where home visits are required.”

“Respondent shall not work in any health care setting as a supervisor of registered nurses. The Board may additionally restrict Respondent from supervising licensed vocational nurses and/or unlicensed assistive personnel on a case-by-case basis.”

“Respondent shall not work as a faculty member in an approved school of nursing or as an instructor in a Board approved continuing education program.”

“Respondent shall not work only on a regularly assigned, identified and predetermined worksite(s) and shall not work in a float capacity.”

“If Respondent is working or intends to work in excess of 40 hours per week, the Board may request documentation to determine whether there should be restrictions on the hours of work.”

Condition 15: Participate in Treatment/Rehabilitation Program for Chemical Dependence. “Respondent, at her expense, shall successfully complete during the probationary period or shall have successfully completed prior to commencement of probation a Board-approved treatment/rehabilitation program of at least six months duration. As required, reports shall be submitted by the program on forms provided by the Board. If Respondent has not completed a Board-approved treatment/rehabilitation program prior to commencement of probation, Respondent, within 45 days from the effective date of the decision, shall be enrolled in a program. If a program is not successfully completed within the first nine months of probation, the Board shall consider Respondent in violation of probation.”

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1 “Based on Board recommendation, each week Respondent shall be required to
2 attend at least one, but not more than five 12-step recovery meetings or equivalent (e.g.,
3 Narcotics Anonymous, Alcoholics Anonymous, etc.) and a nurse support group as approved and
4 directed by the Board. If a nurse support group is not available, an additional 12-step meeting or
5 equivalent shall be added. Respondent shall submit dated and signed documentation confirming
6 such attendance to the Board during the entire period of probation. Respondent shall continue
7 with the recovery plan recommended by the treatment/rehabilitation program or a licensed
8 mental health examiner and/or other ongoing recovery groups.”

9 **GROUND FOR REVOKING PROBATION**

10 14. Grounds exist for revoking probation and imposing the order of
11 revocation of Respondent’s license for failing to comply with the following terms:

12 Condition No. 2: Respondent violated the conditions of her probation, as she
13 failed to comply with Conditions Nos. 5, 9, and 15 above.

14 Condition No. 5: Respondent violated the conditions of her probation, as she
15 failed to submit her quarterly reports due June, 2007 and October, 2007 and her support group
16 attendance forms for those calendar quarters.

17 Condition No. 9: Respondent violated the conditions of her probation, as she
18 worked as a Charge Nurse or supervisor of registered nurses. She also failed to work under
19 maximum supervision. Respondent also should not have carried the narcotic keys as a condition
20 of her job approval nor have access to the Omnicell narcotic system.

21 Condition No. 15: Respondent violated the condition of her probation, as she
22 failed to abstain from mood-altering substances by testing positive for Ethyl Glucuronide
23 (alcohol) on November 19, 2006. Moreover, by her own admission, in early 2007, Respondent
24 self-administered Vicodin which she had diverted from her employer on no less than ten
25 occasions.

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1 PRAYER

2 WHEREFORE, Complainant requests that a hearing be held on the matters herein
3 alleged, and that following the hearing, the Board of Registered Nursing issue a decision:


4 1. Revoking the probation that was granted by the Board of Registered
5 Nursing in Case No.2006-54 and imposing the disciplinary order that was stayed thereby
6 revoking Registered Nurse License No. 679933 issued to Mary Margaret Scotka.

7 2. Revoking or suspending Registered Nurse License No. 679933, issued to
8 Mary Margaret Scotka;

9 3. Ordering Mary Margaret Scotka pay the Board of Registered Nursing the
10 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
11 Professions Code section 125.3;

12 4. Taking such other and further action as deemed necessary and proper.

13 DATED: 9/8/08

14
15 
16 RUTH ANN TERRY, M.P.H., R.N.
17 Executive Officer
18 Board of Registered Nursing
19 Department of Consumer Affairs
20 State of California
21 Complainant

22 LA2007600383
23 60290253.WPD
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Exhibit A

Decision and Order

Board of Registered Nursing Case No. 2006-54

BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Statement of Issues
Against:

MARY MARGARET SCOTKA
5419 Hollywood Blvd., Suite C272
Hollywood, CA 90027

Case No. 2006-54

Respondent

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Registered Nursing, Department of Consumer Affairs, as it's Decision in the above entitled matter.

This Decision shall become effective on May 27, 2006.

IT IS SO ORDERED April 27, 2006



Vice-President
Board of Registered Nursing
Department of Consumer Affairs
State of California

1 BILL LOCKYER, Attorney General
of the State of California
2 JAMI L. CANTORE, State Bar No. 165410
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3 California Department of Justice
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Telephone: (213) 897-2569
5 Facsimile: (213) 897-2804

6 Attorneys for Complainant

7 **BEFORE THE**
8 **BOARD OF REGISTERED NURSING**
9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

10 In the Matter of the Statement of Issues Against:

Case No. 2006-54

11 MARY MARGARET SCOTKA
5419 Hollywood Blvd., Suite C272
12 Hollywood, CA 90027

OAH No. L-2005120289

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

13
14
15 Applicant/Respondent.

16
17 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the
18 above-entitled proceedings that the following matters are true:

19 **PARTIES**

20 1. Ruth Ann Terry, M.P.H., R.N. (Complainant) is the Executive Officer of
21 the Board of Registered Nursing. She brought this action solely in her official capacity and is
22 represented in this matter by Bill Lockyer, Attorney General of the State of California, by Jami L.
23 Cantore, Deputy Attorney General.

24 2. Respondent Mary Margaret Scotka Mary Margaret Scotka (Respondent)
25 is representing herself in this proceeding and has chosen not to exercise her right to be represented
26 by counsel.

27 3. On or about July 29, 2004, Respondent filed an application dated July 1,
28 2004, with the Board of Registered Nursing to obtain an Application for Licensure by

1 Endorsement.

2 JURISDICTION

3 4. Statement of Issues No. 2006-54 was filed on October 25, 2005 before
4 the Board of Registered Nursing (Board), Department of Consumer Affairs, and is currently
5 pending against Respondent. The Statement of Issues and all other statutorily required documents
6 were properly served on Respondent on November 9, 2004. A copy of Statement of Issues No.
7 2006-54 is attached as Exhibit A and incorporated herein by reference.

8 ADVISEMENT AND WAIVERS

9 5. Respondent has carefully read, and understands the charges and allegations
10 in Statement of Issues No. 2006-54. Respondent has also carefully read, and understands the
11 effects of this Stipulated Settlement and Disciplinary Order.

12 6. Respondent is fully aware of her legal rights in this matter, including the right
13 to a hearing on the charges and allegations in the Statement of Issues; the right to be represented by
14 counsel at her own expense; the right to confront and cross-examine the witnesses against her; the
15 right to present evidence and to testify on her own behalf; the right to the issuance of subpoenas to
16 compel the attendance of witnesses and the production of documents; the right to reconsideration
17 and court review of an adverse decision; and all other rights accorded by the California
18 Administrative Procedure Act and other applicable laws.

19 7. Respondent voluntarily, knowingly, and intelligently waives and gives up
20 each and every right set forth above.

21 CULPABILITY

22 8. Respondent admits the truth of each and every charge and allegation in
23 Statement of Issues No. 2006-54.

24 9. Respondent agrees that her Application for Licensure by Endorsement is
25 subject to denial and she agrees to be bound by the Board of Registered Nursing's imposition of
26 discipline as set forth in the Disciplinary Order below.

27 RESERVATION

28 10. The admissions made by Respondent herein are only for the purposes of

1 this proceeding, or any other proceedings in which the Board of Registered Nursing or other
2 professional licensing agency is involved, and shall not be admissible in any other criminal or civil
3 proceeding.

4 CONTINGENCY

5 11. This stipulation shall be subject to approval by the Board of Registered
6 Nursing. Respondent understands and agrees that counsel for Complainant and the staff of the
7 Board of Registered Nursing may communicate directly with the Board regarding this stipulation
8 and settlement, without notice to or participation by Respondent. By signing the stipulation,
9 Respondent understands and agrees that she may not withdraw her agreement or seek to rescind
10 the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this
11 stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of
12 no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the
13 parties, and the Board shall not be disqualified from further action by having considered this matter.

14 12. The parties understand and agree that facsimile copies of this Stipulated
15 Settlement and Disciplinary Order, including facsimile signatures thereto, shall have the same force
16 and effect as the originals.

17 13. In consideration of the foregoing admissions and stipulations, the parties
18 agree that the Board may, without further notice or formal proceeding, issue and enter the
19 following Disciplinary Order:

20 DISCIPLINARY ORDER

21 IT IS HEREBY ORDERED that the application of Respondent Mary Margaret
22 Scotka for licensure is hereby granted, and a license shall be issued to Respondent upon successful
23 completion of all licensing requirements. Said license shall immediately be revoked, the order of
24 revocation stayed, and Respondent placed on probation for a period of 3 years on the following
25 conditions:

26 **Severability Clause.** Each condition of probation contained herein is a separate
27 and distinct condition. If any condition of this Order, or any application thereof, is declared
28 unenforceable in whole, in part, or to any extent, the remainder of this Order, and all other

1 applications thereof, shall not be affected. Each condition of this Order shall separately be valid
2 and enforceable to the fullest extent permitted by law.

3 1. **Obey All Laws.** Respondent shall obey all federal, state and local laws.
4 A full and detailed account of any and all violations of law shall be reported by Respondent to the
5 Board in writing within seventy-two (72) hours of occurrence. To permit monitoring of compliance
6 with this condition, Respondent shall submit completed fingerprint forms and fingerprint fees within
7 45 days of the effective date of the decision, unless previously submitted as part of the licensure
8 application process.

9 **Criminal Court Orders:** If Respondent is under criminal court orders, including
10 probation or parole, and the order is violated, this shall be deemed a violation of these probation
11 conditions, and may result in the filing of an accusation and/or petition to revoke probation.

12 2. **Comply with the Board's Probation Program.** Respondent shall fully
13 comply with the conditions of the Probation Program established by the Board and cooperate with
14 representatives of the Board in its monitoring and investigation of the Respondent's compliance with
15 the Board's Probation Program. Respondent shall inform the Board in writing within no more than
16 15 days of any address change and shall at all times maintain an active, current license status with
17 the Board, including during any period of suspension.

18 Upon successful completion of probation, Respondent's license shall be fully
19 restored.

20 3. **Report in Person.** Respondent, during the period of probation, shall
21 appear in person at interviews/meetings as directed by the Board or its designated representatives.

22 4. **Residency, Practice, or Licensure Outside of State.** Periods of
23 residency or practice as a registered nurse outside of California shall not apply toward a reduction
24 of this probation time period. Respondent's probation is tolled, if and when she resides outside of
25 California. Respondent must provide written notice to the Board within 15 days of any change of
26 residency or practice outside the state, and within 30 days prior to re-establishing residency or
27 returning to practice in this state.

28 Respondent shall provide a list of all states and territories where she has ever been

1 licensed as a registered nurse, vocational nurse, or practical nurse. Respondent shall further
2 provide information regarding the status of each license and any changes in such license status
3 during the term of probation. Respondent shall inform the Board if she applies for or obtains a new
4 nursing license during the term of probation.

5 **5. Submit Written Reports.** Respondent, during the period of probation,
6 shall submit or cause to be submitted such written reports/declarations and verification of actions
7 under penalty of perjury, as required by the Board. These reports/declarations shall contain
8 statements relative to Respondent's compliance with all the conditions of the Board's Probation
9 Program. Respondent shall immediately execute all release of information forms as may be
10 required by the Board or its representatives.

11 Respondent shall provide a copy of this Decision to the nursing regulatory agency in
12 every state and territory in which she has a registered nurse license.

13 **6. Function as a Registered Nurse.** Respondent, during the period of
14 probation, shall engage in the practice of registered nursing in California for a minimum of 24 hours
15 per week for 6 consecutive months or as determined by the Board.

16 For purposes of compliance with the section, "engage in the practice of registered
17 nursing" may include, when approved by the Board, volunteer work as a registered nurse, or work
18 in any non-direct patient care position that requires licensure as a registered nurse.

19 The Board may require that advanced practice nurses engage in advanced practice
20 nursing for a minimum of 24 hours per week for 6 consecutive months or as determined by the
21 Board.

22 If Respondent has not complied with this condition during the probationary term,
23 and Respondent has presented sufficient documentation of her good faith efforts to comply with this
24 condition, and if no other conditions have been violated, the Board, in its discretion, may grant an
25 extension of Respondent's probation period up to one year without further hearing in order to
26 comply with this condition. During the one year extension, all original conditions of probation shall
27 apply.

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1 7. **Employment Approval and Reporting Requirements.** Respondent
2 shall obtain prior approval from the Board before commencing or continuing any employment, paid
3 or voluntary, as a registered nurse. Respondent shall cause to be submitted to the Board all
4 performance evaluations and other employment related reports as a registered nurse upon request
5 of the Board.

6 Respondent shall provide a copy of this Decision to her employer and immediate
7 supervisors prior to commencement of any nursing or other health care related employment.

8 In addition to the above, Respondent shall notify the Board in writing within
9 seventy-two (72) hours after she obtains any nursing or other health care related employment.
10 Respondent shall notify the Board in writing within seventy-two (72) hours after she is terminated or
11 separated, regardless of cause, from any nursing, or other health care related employment with a full
12 explanation of the circumstances surrounding the termination or separation.

13 8. **Supervision.** Respondent shall obtain prior approval from the Board
14 regarding Respondent's level of supervision and/or collaboration before commencing or continuing
15 any employment as a registered nurse, or education and training that includes patient care.

16 Respondent shall practice only under the direct supervision of a registered nurse in
17 good standing (no current discipline) with the Board of Registered Nursing, unless alternative
18 methods of supervision and/or collaboration (e.g., with an advanced practice nurse or physician)
19 are approved.

20 Respondent's level of supervision and/or collaboration may include, but is not
21 limited to the following:

22 (a) Maximum - The individual providing supervision and/or collaboration is
23 present in the patient care area or in any other work setting at all times.

24 (b) Moderate - The individual providing supervision and/or collaboration is in the
25 patient care unit or in any other work setting at least half the hours Respondent works.

26 (c) Minimum - The individual providing supervision and/or collaboration has
27 person-to-person communication with Respondent at least twice during each shift worked.

28 (d) Home Health Care - If Respondent is approved to work in the home health

1 care setting, the individual providing supervision and/or collaboration shall have person-to-person
2 communication with Respondent as required by the Board each work day. Respondent shall
3 maintain telephone or other telecommunication contact with the individual providing supervision
4 and/or collaboration as required by the Board during each work day. The individual providing
5 supervision and/or collaboration shall conduct, as required by the Board, periodic, on-site visits to
6 patients' homes visited by Respondent with or without Respondent present.

7 **9. Employment Limitations.** Respondent shall not work for a nurse's
8 registry, in any private duty position as a registered nurse, a temporary nurse placement agency, a
9 traveling nurse, or for an in-house nursing pool.

10 Respondent shall not work for a licensed home health agency as a visiting nurse
11 unless the registered nursing supervision and other protections for home visits have been approved
12 by the Board. Respondent shall not work in any other registered nursing occupation where home
13 visits are required.

14 Respondent shall not work in any health care setting as a supervisor of registered
15 nurses. The Board may additionally restrict Respondent from supervising licensed vocational
16 nurses and/or unlicensed assistive personnel on a case-by-case basis.

17 Respondent shall not work as a faculty member in an approved school of nursing or
18 as an instructor in a Board approved continuing education program.

19 Respondent shall work only on a regularly assigned, identified and predetermined
20 worksite(s) and shall not work in a float capacity.

21 If Respondent is working or intends to work in excess of 40 hours per week, the
22 Board may request documentation to determine whether there should be restrictions on the hours of
23 work.

24 **10. Complete a Nursing Course(s).** Respondent, at her own expense, shall
25 enroll and successfully complete a course(s) relevant to the practice of registered nursing no later
26 than six months prior to the end of her probationary term.

27 Respondent shall obtain prior approval from the Board before enrolling in the
28 course(s). Respondent shall submit to the Board the original transcripts or certificates of

1 completion for the above required course(s). The Board shall return the original documents to
2 Respondent after photocopying them for its records.

3 **11. Violation of Probation.** If Respondent violates the conditions of her
4 probation, the Board after giving Respondent notice and an opportunity to be heard, may set aside
5 the stay order and impose the stayed discipline (revocation/suspension) of Respondent's license.

6 If during the period of probation, an accusation or petition to revoke probation has
7 been filed against Respondent's license or the Attorney General's Office has been requested to
8 prepare an accusation or petition to revoke probation against Respondent's license, the
9 probationary period shall automatically be extended and shall not expire until the accusation or
10 petition has been acted upon by the Board.

11 **12. License Surrender.** During Respondent's term of probation, if she ceases
12 practicing due to retirement, health reasons or is otherwise unable to satisfy the conditions of
13 probation, Respondent may surrender her license to the Board. The Board reserves the right to
14 evaluate Respondent's request and to exercise its discretion whether to grant the request, or to take
15 any other action deemed appropriate and reasonable under the circumstances, without further
16 hearing. Upon formal acceptance of the tendered license and wall certificate, Respondent will no
17 longer be subject to the conditions of probation.

18 Surrender of Respondent's license shall be considered a disciplinary action and
19 shall become a part of Respondent's license history with the Board. A registered nurse whose
20 license has been surrendered may petition the Board for reinstatement no sooner than the following
21 minimum periods from the effective date of the disciplinary decision:

22 (1) Two years for reinstatement of a license that was surrendered for any
23 reason other than a mental or physical illness; or

24 (2) One year for a license surrendered for a mental or physical illness.

25 **13. Physical Examination.** Within 45 days of the effective date of this
26 Decision, Respondent, at her expense, shall have a licensed physician, nurse practitioner, or
27 physician assistant, who is approved by the Board before the assessment is performed, submit an
28 assessment of the Respondent's physical condition and capability to perform the duties of a

1 registered nurse. Such an assessment shall be submitted in a format acceptable to the Board. If
2 medically determined, a recommended treatment program will be instituted and followed by the
3 Respondent with the physician, nurse practitioner, or physician assistant providing written reports to
4 the Board on forms provided by the Board.

5 If Respondent is determined to be unable to practice safely as a registered nurse,
6 the licensed physician, nurse practitioner, or physician assistant making this determination shall
7 immediately notify the Board and Respondent by telephone, and the Board shall request that the
8 Attorney General's office prepare an accusation or petition to revoke probation. Respondent shall
9 immediately cease practice and shall not resume practice until notified by the Board. During this
10 period of suspension, Respondent shall not engage in any practice for which a license issued by the
11 Board is required until the Board has notified Respondent that a medical determination permits
12 Respondent to resume practice. This period of suspension will not apply to the reduction of this
13 probationary time period.

14 If Respondent fails to have the above assessment submitted to the Board within the
15 45-day requirement, Respondent shall immediately cease practice and shall not resume practice
16 until notified by the Board. This period of suspension will not apply to the reduction of this
17 probationary time period. The Board may waive or postpone this suspension only if significant,
18 documented evidence of mitigation is provided. Such evidence must establish good faith efforts by
19 Respondent to obtain the assessment, and a specific date for compliance must be provided. Only
20 one such waiver or extension may be permitted.

21 **14. Participate in Treatment/Rehabilitation Program for Chemical**
22 **Dependence.** Respondent, at her expense, shall successfully complete during the probationary
23 period or shall have successfully completed prior to commencement of probation a Board-
24 approved treatment/rehabilitation program of at least six months duration. As required, reports
25 shall be submitted by the program on forms provided by the Board. If Respondent has not
26 completed a Board-approved treatment/rehabilitation program prior to commencement of
27 probation, Respondent, within 45 days from the effective date of the decision, shall be enrolled in a
28 program. If a program is not successfully completed within the first nine months of probation, the

1 Board shall consider Respondent in violation of probation.

2 Based on Board recommendation, each week Respondent shall be required to
3 attend at least one, but no more than five 12-step recovery meetings or equivalent (e.g., Narcotics
4 Anonymous, Alcoholics Anonymous, etc.) and a nurse support group as approved and directed by
5 the Board. If a nurse support group is not available, an additional 12-step meeting or equivalent
6 shall be added. Respondent shall submit dated and signed documentation confirming such
7 attendance to the Board during the entire period of probation. Respondent shall continue with the
8 recovery plan recommended by the treatment/rehabilitation program or a licensed mental health
9 examiner and/or other ongoing recovery groups.

10 **15. Abstain from Use of Psychotropic (Mood-Altering) Drugs.**

11 Respondent shall completely abstain from the possession, injection or consumption by any route of
12 all controlled substances and all psychotropic (mood altering) drugs, including alcohol, except when
13 the same are ordered by a health care professional legally authorized to do so as part of
14 documented medical treatment. Respondent shall have sent to the Board, in writing and within
15 fourteen (14) days, by the prescribing health professional, a report identifying the medication,
16 dosage, the date the medication was prescribed, the Respondent's prognosis, the date the
17 medication will no longer be required, and the effect on the recovery plan, if appropriate.

18 Respondent shall identify for the Board a single physician, nurse practitioner or
19 physician assistant who shall be aware of Respondent's history of substance abuse and will
20 coordinate and monitor any prescriptions for Respondent for dangerous drugs, controlled
21 substances or mood-altering drugs. The coordinating physician, nurse practitioner, or physician
22 assistant shall report to the Board on a quarterly basis Respondent's compliance with this condition.
23 If any substances considered addictive have been prescribed, the report shall identify a program for
24 the time limited use of any such substances.

25 The Board may require the single coordinating physician, nurse practitioner, or
26 physician assistant to be a specialist in addictive medicine, or to consult with a specialist in addictive
27 medicine.

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1 **16. Submit to Tests and Samples.** Respondent, at her expense, shall
2 participate in a random, biological fluid testing or a drug screening program which the Board
3 approves. The length of time and frequency will be subject to approval by the Board. Respondent
4 is responsible for keeping the Board informed of Respondent's current telephone number at all
5 times. Respondent shall also ensure that messages may be left at the telephone number when she is
6 not available and ensure that reports are submitted directly by the testing agency to the Board, as
7 directed. Any confirmed positive finding shall be reported immediately to the Board by the
8 program and Respondent shall be considered in violation of probation.

9 In addition, Respondent, at any time during the period of probation, shall fully
10 cooperate with the Board or any of its representatives, and shall, when requested, submit to such
11 tests and samples as the Board or its representatives may require for the detection of alcohol,
12 narcotics, hypnotics, dangerous drugs, or other controlled substances.

13 If Respondent has a positive drug screen for any substance not legally authorized
14 and not reported to the coordinating physician, nurse practitioner, or physician assistant, and the
15 Board files a petition to revoke probation or an accusation, the Board may suspend Respondent
16 from practice pending the final decision on the petition to revoke probation or the accusation. This
17 period of suspension will not apply to the reduction of this probationary time period.

18 If Respondent fails to participate in a random, biological fluid testing or drug
19 screening program within the specified time frame, Respondent shall immediately cease practice and
20 shall not resume practice until notified by the Board. After taking into account documented
21 evidence of mitigation, if the Board files a petition to revoke probation or an accusation, the Board
22 may suspend Respondent from practice pending the final decision on the petition to revoke
23 probation or the accusation. This period of suspension will not apply to the reduction of this
24 probationary time period.

25 **17. Mental Health Examination.** Respondent shall, within 45 days of the
26 effective date of this Decision, have a mental health examination including psychological testing as
27 appropriate to determine her capability to perform the duties of a registered nurse. The
28 examination will be performed by a psychiatrist, psychologist or other licensed mental health

practitioner approved by the Board. The examining mental health practitioner will submit a written report of that assessment and recommendations to the Board. All costs are the responsibility of Respondent. Recommendations for treatment, therapy or counseling made as a result of the mental health examination will be instituted and followed by Respondent.

If Respondent is determined to be unable to practice safely as a registered nurse, the licensed mental health care practitioner making this determination shall immediately notify the Board and Respondent by telephone, and the Board shall request that the Attorney General's office prepare an accusation or petition to revoke probation. Respondent shall immediately cease practice and may not resume practice until notified by the Board. During this period of suspension, Respondent shall not engage in any practice for which a license issued by the Board is required, until the Board has notified Respondent that a mental health determination permits Respondent to resume practice. This period of suspension will not apply to the reduction of this probationary time period.

If Respondent fails to have the above assessment submitted to the Board within the 45-day requirement, Respondent shall immediately cease practice and shall not resume practice until notified by the Board. This period of suspension will not apply to the reduction of this probationary time period. The Board may waive or postpone this suspension only if significant, documented evidence of mitigation is provided. Such evidence must establish good faith efforts by Respondent to obtain the assessment, and a specific date for compliance must be provided. Only one such waiver or extension may be permitted.

18. Therapy or Counseling Program. Respondent, at her expense, shall participate in an on-going counseling program until such time as the Board releases her from this requirement and only upon the recommendation of the counselor. Written progress reports from the counselor will be required at various intervals.

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ACCEPTANCE

I have carefully read the Stipulated Settlement and Disciplinary Order. I understand the stipulation and the effect it will have on my Application for Licensure by Endorsement. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of Registered Nursing.

DATED: January 21 2006

Mary Margaret Scotka
MARY MARGARET SCOTKA (Respondent)
Respondent

ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Board of Registered Nursing of the Department of Consumer Affairs.

DATED: 1/25/06

BILL LOCKYER, Attorney General
of the State of California

Jamil L. Cantore
JAMIL L. CANTORE
Deputy Attorney General

Attorneys for Complainant

Exhibit A

Statement of Issues No. 2006-54

1 BILL LOCKYER, Attorney General
of the State of California
2 JAMI L. CANTORE, State Bar No. 165410
Deputy Attorney General
3 California Department of Justice
300 So. Spring Street, Suite 1702
4 Los Angeles, CA 90013
Telephone: (213) 897-2569
5 Facsimile: (213) 897-2804

6 Attorneys for Complainant

7 **BEFORE THE**
8 **BOARD OF REGISTERED NURSING**
9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

10 In the Matter of the Statement of Issues Against:

Case No. 2006 - 54

11 MARY MARGARET SCOTKA
5419 Hollywood Blvd., Suite C272
12 Hollywood, CA 90027

STATEMENT OF ISSUES

13 Applicant/Respondent.

14
15 Complainant alleges:

16 PARTIES

17 1. Ruth Ann Terry, M.P.H., R.N. (Complainant) brings this Statement of
18 Issues solely in her official capacity as the Executive Officer of the Board of Registered Nursing.

19 2. On or about July 13, 2004, the Board of Registered Nursing received an
20 application for an Application for Licensure by Endorsement as a Registered Nurse from Mary
21 Margaret Scotka (Respondent). On or about July 1, 2004, Mary Margaret Scotka certified under
22 penalty of perjury to the truthfulness of all statements, answers, and representations in the
23 application. The Board denied the application on March 15, 2005.

24 JURISDICTION

25 3. This Statement of Issues is brought before the Board of Registered
26 Nursing, under the authority of the following laws. All section references are to the Business and
27 Professions Code unless otherwise indicated.

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1 "(d) Violating or attempting to violate, directly or indirectly, or assisting in or
2 abetting the violating of, or conspiring to violate any provision or term of this chapter [the
3 Nursing Practice Act] or regulations adopted pursuant to it.

4

5 "(f) Conviction of a felony or of any offense substantially related to the
6 qualifications, functions, and duties of a registered nurse, in which event the record of the
7 conviction shall be conclusive evidence thereof."

8 7. Section 2762 of the Code states:

9 "In addition to other acts constituting unprofessional conduct within the meaning
10 of this chapter it is unprofessional conduct for a person licensed under this chapter to do any of
11 the following:

12 "(a) Obtain or possess in violation of law, or prescribe, or except as directed by a
13 licensed physician and surgeon, dentist, or podiatrist administer to himself or herself, or furnish
14 or administer to another, any controlled substance as defined in Division 10 (commencing with
15 Section 11000) of the Health and Safety Code or any dangerous drug or dangerous device as
16 defined in Section 4022."

17 8. California Code of Regulations, title 16, section 1444, states:

18 "A conviction or act shall be considered to be substantially related to the
19 qualifications, functions or duties of a registered nurse if to a substantial degree it evidences the
20 present or potential unfitness of a registered nurse to practice in a manner consistent with the
21 public health, safety, or welfare.

22 **FIRST CAUSE FOR DENIAL OF APPLICATION**

23 (Conviction of a Substantially Related Crime)

24 9. Respondent's application is subject to denial under section 2761,
25 subdivision (f) and 480, subdivision (a)(1), in conjunction with California Code of Regulations,
26 title 16, section 1444, in that Respondent was convicted of a crime substantially related to the
27 qualifications, functions or duties of a licensed registered nurse, as follows:

28 ///

1 A. On or about March 14, 2002, Respondent was convicted by the court on a
2 grand jury indictment for violating Virginia Code sections 18.2-258.1 (obtaining drugs by fraud),
3 a class 6 felony, in the Circuit Court for the City of Williamsburg and the County of James City
4 County, State of Virginia, under Case No. 12385-00, entitled *Commonwealth of Virginia v. Mary*
5 *M. Scotka*.

6 B. On or about July 23, 2003, the case was re-heard and Respondent was
7 found not guilty of violating Virginia Code sections 18.2-258.1 (obtaining drugs by fraud), but
8 guilty of violating Virginia Code sections 18.2-19 (accessory after the fact to obtain drugs by
9 fraud), a misdemeanor, in the Circuit Court for the City of Williamsburg and the County of
10 James City County, State of Virginia, under Case No. 12385-00, entitled *Commonwealth of*
11 *Virginia v. Mary M. Scotka*.

12 C. The circumstances surrounding the conviction are that on or about August
13 22, 2001, Respondent obtained or attempted to obtain or procured or attempted to procure from
14 her employer, controlled substances by fraud, deceit, misrepresentation, embezzlement, or
15 subterfuge; or by the forgery or alteration of a prescription or any written order; or by the
16 concealment of a material fact; or by the use of a false name or the giving of a false address.

17 SECOND CAUSE FOR DENIAL OF APPLICATION

18 (Unprofessional Conduct: Dishonesty, Fraud or Deceit)

19 10. Respondent's application is subject to denial under section 2761,
20 subdivision (a) and 480, subdivision (a)(2), for unprofessional conduct, in that on or about
21 August 22, 2001, Respondent committed acts involving dishonesty, fraud or deceit, with the
22 intent to substantially benefit herself or another, or substantially injure another, as more fully set
23 forth above in paragraph 9 and incorporated herein by reference.

24 THIRD CAUSE FOR DENIAL OF APPLICATION

25 (Unprofessional Conduct: Grounds for Suspension or Revocation of License)

26 11. Respondent's application is subject to denial under section 2761,
27 subdivisions (a), (d), and 480, subdivision (a)(3), for unprofessional conduct, in that on or about
28 August 22, 2001, Respondent violated the law and committed acts, which if done by a licentiate

1 of the business or profession in question, would be grounds for suspension or revocation of the
2 license.


3 PRAYER

4 WHEREFORE, Complainant requests that a hearing be held on the matters herein
5 alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

6 1. Denying the application of Mary Margaret Scotka for Licensure by
7 Endorsement as a Registered Nurse;

8 2. Taking such other and further action as deemed necessary and proper.

9 DATED: 10/25/05

11 
12 RUTH ANN TERRY, M.P.H., R.N.
13 Executive Officer
14 Board of Registered Nursing
15 State of California
16 Complainant
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